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OFFICE OF PETITIONS

In re Application of

McDaniel, et al.

Application No. 09/809,155

Filed: March 5, 2001

Attorney Docket No. 00P 7500 US01

DECISION ON PETITION

This is a decision on the "Petition for Revival of an Application for Patent Abandoned under 37 CFR 1.137." The petition will be treated as a petition to withdraw the holding of abandonment under 37 CFR 1.181(a).

The petition is **granted**.

This application was held abandoned on June 25, 2001, it was believed that applicant failed to provide a complete response to the Notice to File Missing Parts of Nonprovisional Application mailed April 24, 2001. The Notice to File Missing Parts of Nonprovisional Application allowed an extendable period for response of two months from its mailing date. A response was received on June 18, 2001, but did not include a substitute specification as required by the Notice to File Missing Parts of Nonprovisional Application. A Notice of Incomplete Reply was mailed on June 27, 2001, indicating that the reply of June 18, 2001, was incomplete and explaining that the period for reply continued to run from the mailing date of the Notice to File Missing Parts of Nonprovisional Application. No further responses were believed to have been received and the application became abandoned on June 25, 2001. A Notice of Abandonment was mailed on December 11, 2003. The instant petition was filed on February 9, 2004.

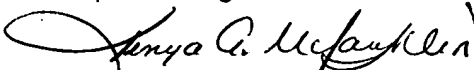
A review of the application file revealed a filing made August 22, 2001, titled, "Response to Notice of Incomplete Reply (Nonprovisional)" that included a substitute specification. The response also included an authorization to charge deposit account 19-2179 for any fee due that would have allowed for an extension of time within the second month necessary to make the response of August 22, 2001, timely.

Based on the aforementioned, it is evident that a complete and timely response to the notice to File Missing Parts of Nonprovisional Application was received and that the holding of abandonment was improperly imposed. The holding of abandonment is, therefore, withdrawn and the Notice of Abandonment vacated as of the mailing date of this decision.

The fee for the petition to revive will be refunded to deposit account 19-2179, in due course.

Deposit account 19-2179 will be charged \$400.00 for the extension of time within the second month.

The application file is being forwarded to the Office of Initial Patent Examination for further processing.



Kenya A. McLaughlin
Petitions Attorney
Office of Petitions